

Applicant: Lionel Foster et al.
Appl. No.: 10/577,852

REMARKS

The Applicant thanks the Examiner for the careful consideration of this application.

Claims 1-4 and 6-21 are currently pending, and have been amended. Claims 5, 22, and 23 have been cancelled, without prejudice. Based on the foregoing amendments and the following remarks, the Applicant respectfully requests that the Examiner reconsider all outstanding rejections and that they be withdrawn.

Rejections under 35 U.S.C. § 102

The Office Action rejected claims 1, 2, 6, and 8-10 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 964,432 to Kemmler (“Kemmler”). Claim 1 is the independent claim. The Applicant traverses this rejection for at least the following reasons.

Kemmler does not disclose the following element of claim 1:

when the lifting device is positioned upright and no upward pressure is applied to the frame members, the first and second frame members pivot under their own weight into the first, open, configuration, but are prevented from further pivotal movement by a first abutment member located on the first frame member abutting a second abutment member located on the second frame member.

As best understood, the Office Action apparently aligns the gripping members 7 disclosed in Kemmler’s Figs. 2 and 3 with the claimed “first frame member” and “second frame member.” However, when “no upward pressure is applied to” the gripping members 7, neither gripping member 7 is “prevented from further pivotal movement by a first abutment member located on” one gripping member 7 “abutting a second abutment member located on” the other gripping

Applicant: Lionel Foster et al.
Appl. No.: 10/577,852

member 7, as claimed. As shown in Kemmler's Fig. 3, the gripping members 7 lack any abutment members. Further, movement of the gripping members 7 into an open configuration is uninhibited by any contact between the two gripping members 7, because movement into the open configuration causes the entirety of one gripping member 7 to move away from the entirety of the other gripping member 7. Therefore, Kemmler does not disclose,

when the lifting device is positioned upright and no upward pressure is applied to the frame members, the first and second frame members pivot under their own weight into the first, open, configuration, but are prevented from further pivotal movement by a first abutment member located on the first frame member abutting a second abutment member located on the second frame member

as recited by claim 1.

Furthermore, the claimed arrangement in claim 1 that "when . . . no upward pressure is applied to the frame members, the first and second frame members pivot under their own weight into the first, open, configuration, but are prevented from further pivotal movement by a first abutment member located on the first frame member abutting a second abutment member located on the second frame member," provides unexpected advantages over the prior art. For example, the lifting device stays in an open configuration under its own weight, so as to be readily and easily slipped over a compressed gas storage cylinder. Prior art compressed gas storage cylinder lifting devices, on the other hand, include frame members that would, when no upward pressure is applied, pivot under their own weight and collapse inward upon themselves to thereby not define an opening into which the compressed gas storage container may be inserted.

Accordingly, such prior art devices require that the user hold the device in an open position. Furthermore, prior art devices do not provide any guidance to the user whether the device is

Applicant: Lionel Foster et al.
Appl. No.: 10/577,852

being held in an open position, potentially making it difficult to place the device on a compressed gas storage cylinder. The lifting device of claim 1 unexpectedly overcomes these problems of the prior art, and as a result, provides unexpected advantages over the prior art.

The Applicant submits that claim 1 is patentable over Kemmler for at least the foregoing reasons. Claims 2, 6, and 8-10 depend from claim 1, and are patentable for at least the same reasons.

Rejections under 35 U.S.C. § 103

(1) The Office Action rejected claims 1-4, 6-12, and 14-21 under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 6,840,556 to Catlett ("Catlett") in view of either Kemmler or U.S. Patent No. 5,009,558 to Savedra, Jr. ("Savedra"). Claims 1 and 21 are the independent claims. The Applicant traverses this rejection for at least the following reasons.

No reasonable combination of Catlett and Kemmler or Catlett and Savedra discloses or renders obvious,

when the lifting device is positioned upright and no upward pressure is applied to the frame members, the first and second frame members pivot under their own weight into the first, open, configuration, but are prevented from further pivotal movement by a first abutment member located on the first frame member abutting a second abutment member located on the second frame member

as recited by claim 1.

As best understood, the Office Action apparently aligns the lifting members 12, 14 of Catlett's Fig. 1 with the claimed "first frame member" and "second frame member." However,

Applicant: Lionel Foster et al.
Appl. No.: 10/577,852

when "no upward pressure is applied to" the lifting members 12, 14, they are not "prevented from further pivotal movement by a first abutment member located on" the lifting member 12 "abutting a second abutment member located on" the lifting member 14, as claimed. Referring to Catlett's Fig. 1, the lifting members 12, 14 lack any abutment members. In addition, when no upward pressure is applied to the lifting members 12, 14, they would completely separate from one another until they collapsed onto one another, in a closed configuration.

As discussed above, Kemmler fails to overcome the deficiencies of Catlett. Likewise, Savedra fails to remedy the deficiencies of Catlett, because Savedra lacks a "first abutment member" on one of the handles 12 that abuts a "second abutment member" located on the other of the handles 12, as claimed. (See Savedra at Fig. 4.) Accordingly, no reasonable combination of Catlett and Kemmler, nor Catlett and Savedra discloses or renders obvious,

when the lifting device is positioned upright and no upward pressure is applied to the frame members, the first and second frame members pivot under their own weight into the first, open, configuration, but are prevented from further pivotal movement by a first abutment member located on the first frame member abutting a second abutment member located on the second frame member

as recited by claim 1. Independent claim 21 includes similar elements, and is patentable over Catlett and Kemmler, as well as Catlett and Savedra, for at least the same reasons.

In addition, the lifting devices of claims 1 and 21 provide unexpected advantages over the apparatuses of Catlett, Kemmler, and Savedra, for substantially the same reasons as discussed above in connection with the Section 102 rejections.

In view of the foregoing, the Applicant submits that claims 1 and 21 are patentable over

Applicant: Lionel Foster et al.
Appl. No.: 10/577,852

any reasonable combination of Catlett and Kemmler or Catlett and Savedra. Claims 2-4, 6-12, and 14-20 depend from claim 1, and are patentable for at least the same reasons.

(2) The Office Action rejected claim 13 under 35 U.S.C. § 103(a) as being obvious over Catlett in view of either Kemmler or Savedra, further in view of U.S. Patent No. 5,601,324 to Purcell ("Purcell"). Claim 13 depends indirectly from claim 1, which, as shown above, is patentable over Catlett in view of either Kemmler or Savedra. Purcell does not remedy the deficiencies of Catlett, Kemmler, and Savedra, because, for example, Purcell lacks the claimed "first abutment surface" and "second abutment surface." Therefore, claim 1 and its dependent claim 13 are patentable over any reasonable combination of Catlett, Kemmler, Savedra, and Purcell.

Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant, therefore, respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is hereby invited to telephone the undersigned at the number provided.

Applicant: Lionel Foster et al.
Appl. No.: 10/577,852

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,

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/Steven J. Schwarz/
Michael A. Sartori, Ph.D.
Registration No. 41,289
Steven J. Schwarz
Registration No. 47,070
VENABLE LLP
P.O. Box 34385
Washington, DC 20043-9998
Telephone: (202) 344-4000
Direct Dial: (202) 344-4295
Telefax: (202) 344-8300

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